

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2086.04
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	January 23, 2004
DATE OF REPORT:	February 20, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	April 1, 2004

COMPLAINT ISSUES:

Whether the Monroe County Community School Corporation violated:

511 IAC 7-27-4(a)(5) by failing to convene a case conference committee (CCC) meeting within ten instructional days of the enrollment date of a student who has been receiving special education in another district within the state;

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written;

511 IAC 7-27-7(c)(3) by failing to implement the student's IEP immediately upon enrollment from another district within the state; and

511 IAC 7-25-6(j) by failing to send written notice to the parent within 20 instructional days after the student's reevaluation has been completed, along with a copy of the reevaluation report.

FINDINGS OF FACT:

1. Student A and Student B are both ten years old and attend the local elementary school. Both are eligible for special education and related services as students with a mild mental handicap.
2. The Complainant contends that the School failed to convene a CCC meeting within ten instructional days of Student A's and Student B's move from a different school corporation. The Students started at the current school on August 27, 2003, the beginning of the 2003-2004 school year. The CCC meeting was delayed because the Teacher of Record (TOR) was unsure about information received from the previous school, and believed that it would be better to work with the Students and get a deeper understanding of their abilities prior to the meeting. The CCC meetings for both Students were held on November 10, 2003, over two months after they were first enrolled.
3. The IEPs with which Student A and Student B came to the School contain specific requirements as far as occupational therapy, speech therapy (Student A only), and time spent in a setting reserved for special education. However, while the IEPs call for specific percentages of time to be allotted to a special education setting, the current School does not have any separate classrooms or facilities for special education. It is known as an "inclusion school," and all students with disabilities receive services in the general education curriculum with nondisabled students. Because of this, the School made an effort to fulfill the requirements of the IEPs as much as possible, trying to provide roughly

equivalent services. The TOR spoke with the Students' other teachers and worked with the Students one on one; however, at other times it was up to the individual teachers to follow through with accommodations and services. There was no indication of the total amount of time the TOR spent with the Students. Instead of a speech therapy log with specific dates and times of service, progress notes for speech therapy were received, with only two clear dates given. The occupational therapy log indicates that direct services from the occupational therapist did not begin until after the CCC meeting on November 10, 2003. Before the CCC meeting, the occupational therapist met with the TOR to discuss the Students (September 10), received records from the previous school and scheduled evaluations, (October 2), and completed the 60-minute evaluations (October 28). During the first meeting, the TOR and occupational therapist discussed the formation of a TOR-led small group to focus on handwriting issues for each Student; however, there is no indication of the amount of time TOR spent with the small group, nor is there an indication that the small group worked only on these OT issues. Evaluation Team Occupational Therapy Reports indicate that the Students were receiving required services, but do not indicate the dates on which services began. The first date on the Progress Note for speech therapy is November 5, 2003.

4. The TOR met with the parent before the beginning of the school year, and shared information with other teachers, so that services could begin on time. However, due to the findings in Finding of Fact #3, the School did not document that these services began immediately upon Student A's and Student B's enrollment.
5. The evaluations completed during the 2003-2004 school year were additional evaluations, not reevaluations. In other words, they were not implemented for the purpose of fulfilling a required 36-month review, but were specifically requested to determine the appropriateness of disability categories for the Students. Because of this, the requirement of getting the evaluation reports to the parents within 20 instructional days does not apply. Both parents gave their consent to the additional evaluations with their signatures, on the Reevaluation Planner/Referral forms dated November 11, 2003.
6. When an additional evaluation is requested, the educational agency has 60 instructional days to convene the CCC to discuss the results. Therefore, the CCC was required to be convened by February 23, 2004. The evaluations were completed on December 9 and 10, 2003, were mailed to the parents on January 28, 2004, and the CCC meetings were convened on February 11.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the first CCC meeting at the Students' new school was postponed well beyond ten instructional days. Therefore, a violation of 511 IAC 7-27-4(a)(5) is found.
2. Finding of Fact #3 indicates that, although an effort was made, the School did not implement the Students' IEPs as written. Therefore, a violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #4 indicates that School did not document that the services detailed in the IEPs began immediately upon the enrollment of the Students. Therefore, a violation of 7-27-7(c)(3) is found.
4. Findings of Fact #5 and #6 indicate that the 20-day period for reporting the findings of a reevaluation does not apply, but the timelines governing additional evaluations were adhered to. The parents gave their consent to the additional evaluations. The CCC meetings were convened before the expiration of 60 instructional days, according to the rules set forth in 511 IAC 7-25-7 and 511 IAC 7-25-4. No violation of 511 IAC 7-25-6(j) is found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Monroe County Community School Corporation shall:

1. send a written memorandum to all personnel who work with students with disabilities to clarify that, when a student comes in from another district, a CCC meeting must be held within ten instructional days, regardless of the particular circumstances.
Send a copy of the memorandum to the Division, with a list of personnel who received it, by March 15, 2004.
2. immediately convene a CCC meeting to determine whether and to what extent compensatory services are needed, especially with regard to speech therapy (Student A) and occupational therapy (both Students). Record findings as a part of the CCC report.
Send a copy of the CCC report, with a list of participants, to the Division no later than March 15, 2004.